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I hereby certify that the *attached* correspondence comprising: 1). Declaration under 37 CFR §1.131 (4 pages) w/attachment (49 pages) is being deposited with the United States Postal Service "Express Mail Post Office to addressee" in an envelope addressed to: Mail Stop: Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 22, 2003

  
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Kathy Raymond

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Anthony J. Ruggiero	Docket No. :	IL-9928
Serial No. :	09/877,961	Art Unit :	1753
Filed :	06/08/2001	Examiner :	Kaj K. Olsoen
For :	CHEMICAL MICRO-SENSOR		

**DECLARATION UNDER 37 CFR §1.131**

Declaration of Prior Invention by Anthony J. Ruggiero to Overcome Cited Patent

Commissioner of Patents and Trademarks  
Alexandria, VA 22313-1450

Dear Sir:

I, Anthony J. Ruggiero, hereby declare that:

- (1) I am the inventor named in the subject application;
- (2) I am a citizen of the United States and a resident of Livermore, California;
- (3) I have been advised that some of the claims in my subject patent application were rejected in an Office Action mailed October 8, 2003 and the claims were rejected over the primary reference, U.S. Patent No. 6,381,025 (Bornhop et al. Reference) and another secondary reference; the primary Bornhop et al. Reference issued April 30, 2002 from an application filed March 6,

2000 and was based upon a provisional application filed on August 19, 1999; therefore, August 19, 1999 is the earliest effective date of the Bornhop et al. Reference;

- (4) I made the invention described and claimed in my subject patent application (hereinafter "The Invention") in this country prior to August 19, 1999;
- (5) I conceived The Invention in this country prior to August 19, 1999;
- (6) I made written descriptions of The Invention in this country prior to August 19, 1999;
- (7) I disclosed The Invention to others in this country prior to August 19, 1999;
- (8) I reduced The Invention to practice in this country prior to August 19, 1999;
- (9) I continuously worked on testing, developing, and patenting The Invention during the period from the time when I made the first written description of The Invention and disclosed The Invention to others until 06/08/2001when the subject application was filed (hereinafter "The Time Period");
- (10) Attached as ATTACHMENT A is photostatic copy of a "RECORD OF INVENTION" which I completed, which I signed, and which I submitted to the Office of Laboratory Counsel of my employer the University of California, the entries for the dates on ATTACHMENT A have been blacked out; however, the dates are prior to August 19, 1999;

ATTACHMENT A, the photostatic copy of a "RECORD OF INVENTION" includes three attachments and the entries for the dates on the three attachments have been blacked out; however, the dates are prior to August 19, 1999;

I am advised that I can submit this Declaration and three attachments with the dates blacked out as provided by MPEP § 715.07 Facts and Documentary Evidence - ESTABLISHMENT OF DATES, which provides, "If the dates of the exhibits have been removed or blocked off, the matter of dates can be taken care of in the body of the oath or declaration. When alleging that conception or a reduction to practice occurred prior to the effective date of the reference, the dates in the oath or declaration may be the actual dates or, if the applicant or patent owner does not desire to disclose his or her actual dates, he or she may merely allege that the acts referred to occurred prior to a specified date;"

I am advised that the procedure of blacking out the dates is desirable because the actual dates may become important in later proceedings and that it would be detrimental for me to disclose exactly how early are my dates;

(11) the photostatic copy of the "RECORD OF INVENTION" ATTACHMENT A, in the Conception Date Place, Section X, contains an entry for the "Conception Date," the entry has been blacked out; however, the entry is prior to August 19, 1999 and the "Conception Place" entry LLNL is in this country (USA);

(12) the photostatic copy of the "RECORD OF INVENTION" (ATTACHMENT A) also includes sections showing that I made The Invention in this country prior to August 19, 1999, that I made written descriptions of The Invention in this country prior to August 19, 1999, that I disclosed The Invention to others in this country prior to August 19, 1999, that I reduced The Invention to practice in this country prior to August 19, 1999, and that testing, developing,

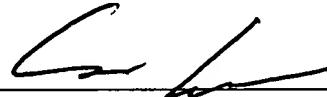
and patenting of The Invention was continuously worked on during The Time Period;

(13) The Invention was tested prior to August 19, 1999 and The Invention was reduced to practice in this country prior to August 19, 1999, the "RECORD OF INVENTION" (ATTACHMENT A) includes section XI. Reduction to Practice with entries for Date first model completed and Date of operation and testing, the entries have been blacked out; however, the entries are prior to August 19, 1999, the results of testing of The Invention were prior to August 19, 1999 and The Invention was reduced to practice in this country prior to August 19, 1999; the dates on the photostatic copies have been blacked out, however, the dates are prior to August 19, 1999;

(14) I do not know and do not believe that the invention has been in public use or on sale in this country, or patented or described in a printed publication in this or any foreign country for more than one year prior to my application, and I have never abandoned my invention;

(15) I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

(Signature)

 12/17/03  
Declarant: Anthony J. Ruggiero

Dated: 12/17/03  
Livermore, California